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HUMAN RIGHTS COMMITTEE
Sixty-second session

HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding Observations of the Human Rights Committee

Cyprus

1. The Committee considered the third periodic report of Cyprus (CCPR/C/94/Add.1) at its 1647th and 1648th meetings held on 24 March 1998 (see CCPR/C/SR 1647 and 1648), and adopted at its 1663rd meeting (CCPR/C/SR 1663 meeting held on 3 April 1998) the following comments:

A. Introduction

2. The Committee welcomes the timely and comprehensive report submitted by the Government of Cyprus, as well as the information provided in the supplementary report to the third periodic report. The Committee notes with satisfaction that the concluding observations made in connection with the second periodic report

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have been largely taken into account by the Government of Cyprus in the report under consideration. The Committee expresses its appreciation of the constructive dialogue with the delegation which enabled it to gain a deeper understanding of the human rights situation in Cyprus, in particular of the mandates and functioning of the national machineries in place to protect and promote human rights in the country.

B. Factors and difficulties affecting the implementation of the Covenant

3. The Committee notes that the State party, as a consequence of events that occurred in 1974 and resulted in the occupation of part of the territory of Cyprus, is still not in a position to exercise control over all of its territory and consequently cannot ensure the application of the Covenant in areas not under its jurisdiction. The Committee also notes that, as a consequence of the same events, a number of citizens of both Greek and Turkish communities continue to be missing, making it impossible for the State party to provide any information about the protection of their rights.

C. Positive aspects

4. The Committee welcomes the establishment of a Commissioner for Administration with the mandate to investigate, inter alia, alleged cases of ill-treatment, inhuman and/or degrading treatment and torture. The Committee also notes the decision by the Council of Ministers to establish a National Institution for Human Rights, which should be an independent body charged with monitoring the

compliance by the Government of Cyprus with its obligations under international human rights instruments.

5. The Committee expresses its appreciation over the revision of the legislation concerning prisons and of its regulations which have, in particular, facilitated the establishment of a register for detainees. It also welcomes the creation of an independent Prison Council.

6. The Committee also notes with satisfaction the incorporation of a human rights course element into the core training programme for police officers and for government officials.

7. The Committee welcomes the establishment of a Family court with jurisdiction over civil and religious marriage

8. The Committee also welcomes the recent agreement between the Government of Cyprus and the representatives of the Turkish Cypriot authorities to resolve the fate of the persons disappeared and missing since 1974 and encourages both sides to continue their efforts with the assistance of international mediation.

D. Principal subjects of concern and the Committee's recommendations

9. The Committee notes as a general concern the long delays and obstacles experienced in enacting into law many desirable proposals for new legislation on a number of matters and strongly urges the State party to take all necessary steps

to remedy this situation in order to implement the provisions of the Covenant more comprehensively at the national level.

10. The Committee regrets the persistence of inequality between men and women in law and in practice in Cyprus. It is concerned that discriminatory provisions on the basis of sex continue to inhibit the full enjoyment by women of their human rights, in particular in laws relating to marriage, nationality, immigration, employment and education. The Committee urges the State party to adopt legislative measures to eliminate sex-based discrimination in all relevant areas.

11. The Committee notes with concern the discriminatory legal provisions which penalize homosexual acts and urges the State party to repeal them.

12. The Committee is concerned that the new law on prevention of violence within the family has not produced the expected positive results and urges the State party to adopt appropriate measures to improve the situation. A reform of the law on evidence should take into account the possibility of eliminating obstacles to a spouse providing testimony against another spouse on domestic violence.

13. The Committee is concerned that the adoption of a proposed new law regulating civil debt has been unreasonably delayed and recommends the State party to ensure that the requirements of article 11 of the Covenant be fully met.

14. The Committee reiterates its concern that, while the Covenant has superior force to domestic law under the Constitution and may be invoked in the courts,

there remain uncertainties as to which provisions of the Covenant are self-executing within domestic law of the State party and which require specific legislation.

15. While the Committee notes the enactment of a new law regulating public assemblies and processions, it is concerned about the conditions which the appropriate authorities may impose regarding the conduct of assemblies and processions upon receiving the required advance notification. The Committee also notes that the advance notice required to be given is too early and may unduely curtail freedom of assembly. The Committee reiterates that restrictions on freedom of assembly must be limited only to those which are in conformity with article 21 of the Covenant.

16. The Committee is concerned that the age criminal responsibility is still fixed at seven years, and that marriageable age is defined as the onset of puberty. The Committee further reaffirms its position that corporal punishment is prohibited under the Covenant.

17. The Committee remains concerned about the discriminatory treatment accorded to conscientious objectors in Cyprus, who may be subject to punishment on one or more occasion for failure to perform military service. The Committee recommends that the proposed new law concerning conscientious objectors ensure their fair treatment under the law and eradicate lengthy imprisonment as a form of punishment.

18. Considering the repeated allegations of discrimination against Cypriot citizens of Turkish origin, including issues of employment and identity cards, the Committee regrets the lack of concrete information on the situation of those citizens, and requests the Government of Cyprus to provide detailed information on this matter in the fourth periodic report.

19. In relation to cases of alleged brutality, ill-treatment, and torture by the police, the Committee urges the State party to take firm measures to ensure an effective remedy to any victim of such human rights violation. In this connection, the Committee is concerned about the apparent reluctance of victims of violence and ill-treatment to testify before the relevant instances and recommends that the State party take every possible measure to correct the situation, including increased public information activities to educate the public on redress mechanisms available at the national level, their mandates and their functioning.

20. The Committee recommends that the legal profession as well as the legislative, judicial and administrative authorities be provided with adequate information on the provisions of the Covenant and its optional protocols. The Committee also recommends that appropriate publicity be given to the third periodic report and its consideration by the Committee, including these observations.

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Concluding Observations of the

Human Rights Committee

Zimbabwe

1. The Committee considered the initial report of Zimbabwe (CCPR/C/74/Add.3) at its 1650th meeting (CCPR/C/SR.1650), held on 25 March 1998, and at its 1651st meeting (CCPR/C/SR. 1651), held on 26 March 1998. It adopted the following concluding observations on 3 April 1998 at its 1664th meeting (CCPR/C/SR. 1664).

A. Introduction

2. The Committee welcomes the initial report of Zimbabwe, which was prepared in partial conformity with the Committee's guidelines. The

Committee regrets the considerable delay in the submission of the report and notes that, while providing detailed information on prevailing legislation in the field of human rights in Zimbabwe, the report does not contain sufficient specific information on the implementation of the Covenant in practice. Moreover, in the oral presentation by the delegation, only an incomplete picture regarding constitutional amendments emerged. The Committee appreciates the willingness of the State party to engage in a frank and open dialogue and welcomes its offer to furnish further and more detailed written information.

B. Positive aspects

3. The Committee welcomes the on-going review of domestic legislation and customary law in order to ensure their compatibility with the Covenant, particularly in the area of women's rights. The Committee welcomes the recent constitutional amendment which includes gender as a prohibited ground of discrimination.

4. The Committee welcomes the decisions of the Supreme Court upholding rights protected by the Covenant.

5. The Committee welcomes the establishment of the Office of the Ombudsman, with power to investigate citizens' complaints concerning alleged violations of human rights by officials and the establishment

of an Inter-Ministerial Committee on Human Rights and International Humanitarian Law.

6. The Committee welcomes police training by non-governmental organizations, and notes the efforts undertaken by Zimbabwe to integrate human rights education in the school curricula.

7. The Committee commends the provision of statistics on AIDS and the efforts undertaken to incorporate AIDS/HIV awareness campaigns in the school curricula.

C. Subjects of concern and Committee's recommendations

8. The Committee notes with concern the persistence of behavioral attitudes in the society as well as cultural and religious practices which impede the full enjoyment of human rights. The Committee encourages the State party to take necessary legislative and other measures to correct this situation.

9. The Committee notes that not all of the rights in the Covenant have been made part of domestic law and cannot be invoked directly before domestic courts. Notwithstanding the State party's stated policy of thorough legislative review in order to ensure compatibility of domestic legislation with the Covenant, the Committee notes the absence of effective institutional mechanisms to

ensure systematic implementation and monitoring of its provisions. The Committee is concerned about the increasing trend to enact Parliamentary legislation and constitutional amendments to frustrate decisions of the Supreme Court that uphold rights protected under the Covenant and overturn certain laws incompatible with it.

10. The Committee regrets that the Ombudsman has no power to initiate investigation suo motu but only where a complaint has been lodged. The Committee also regrets that the President, the President's Office, the Attorney-General and Secretary for Justice, Legal and Parliamentary Affairs and any member of their staff are specifically excluded from investigation by the Ombudsman. The Committee emphasizes the importance and necessity of setting up an effective independent institutional mechanism for monitoring the implementation of the Covenant.

11. The Committee recommends that the State party undertake a comprehensive review of its domestic legislation, including the Constitution, with a view to ensuring its full compatibility with the principles and provisions of the Covenant. The State party is urged to ensure that the Covenant rights are not restricted or overriden by incompatible legislation and that individuals are able to challenge in the courts the application of laws which affect their rights under the Covenant. The Committee recommends the

establishment of institutional mechanisms to ensure the integration of Covenant rights in law and practice.

12. The Committee is concerned about the duality of the legal statutory law and customary law), which potentially leads to unequal treatment between individuals, particularly in the area of marriage and inheritance laws. The Committee expresses concern that where customary law contravenes the Covenant or the statutory law, the customary law continues to be upheld and applied. The Committee is concerned about continued practices, in violation of various provisions of the Covenant, including articles 3 and 24, such as kuzvarita (pledging of girls for economic gain), kuripa ngozi (appeasement to the spirits of a murdered person), lobola (bride price), female genital mutilation, early marriage, the statutory difference in the minimum age of girls and boys for marriage. The Committee recommends that these and other practices which are incompatible with the Covenant (articles 3, 7, 23, 24 and others) be prohibited by legislation. Moreover, the Committee urges the Government to adopt adequate measures to prevent and eliminate prevailing social attitudes and cultural and religious practices hampering the realization of human rights by women.

13. While welcoming the Deceased Estate Succession Act 1997, under which a widow may inherit part of her deceased husband's estate, the Committee would appreciate further information on the steps taken to

ensure that widows are made aware of this right and that legal assistance be provided for their benefit.

14. The Committee is concerned about the extent and persistence of domestic violence against women. Legislation should be passed and make initial rape a criminal offence. Educational campaigns should be undertaken and institutional mechanisms should be established to address all forms of violence against women, and to provide assistance to victims of violence.

15. The Committee is concerned about the subordinate status of women in Zimbabwean society. Measures should be taken, in accordance with articles 3 and 26 of the Covenant, to eliminate discrimination against them and promote their role in society. There should be mechanisms to receive complaints, award appropriate remedies and report publicly on problems and progress.

16. The Committee expresses its concern over recent reports of excessive use of force by the police and the army during food riots in 1998. The Committee urges that all cases of alleged excessive use of force committed by members of the police or the army be investigated by an independent and impartial body, that action be taken against those officers found to have committed abuses and that compensation be paid to the victims; the State party should report to the Committee thereon. Intensive training and education programmes in the field of human rights for members of the army and

law enforcement officials are recommended. The Committee urges that the list of situations in which the use of lethal force is allowed under domestic law be reduced.

17. With regard to pre-trial detention, the Committee expresses concern that under the Criminal Procedure and Evidence Act the maximum period of detention of 48 hours before being brought to a judge or magistrate may be extended to 96 hours by a senior police officer, a practice which is incompatible with article 9 of the Covenant. The Committee is especially concerned that this practice provides opportunity for ill treatment and intimidation of detainees. The law relating to arrest and detention should be reviewed to bring it into conformity with article 9 of the Covenant and to ensure that individuals are not held in pre-trial custody for longer than 48 hours without court order. The Committee requests further information on the authority of the Attorney-General to deny bail to individuals in pre-trial detention.

18. While recognizing the efforts undertaken by the State party to improve prison conditions, the Committee is concerned about the conditions of overcrowding and disease in most prisons, resulting in a high incidence of death. The Committee recommends that these conditions be remedied in compliance with article 10 of the Covenant and that the State party provide qualitative and quantitative statistical data on the state of prisons in its next report.

19. The Committee notes with concern that the decision of the Supreme Court in Rattigan and Others v. Chief Immigration Officer and Others has been nullified by an amendment to the constitution, the effect of which is to deprive both women and men of the right to have their spouses registered as citizens, who as a consequence may not be allowed to reside in or enter the territory of Zimbabwe. The Committee considers that this amendment is incompatible with articles 17 and 23 of the Covenant. The Committee recommends that steps be taken to bring the law into compliance with the Covenant. The Committee is also concerned that children born to Zimbabweans abroad may not acquire Zimbabwen citizenship.

20. The Committee recommends that the State party review its laws with a view to reducing the number of offences for which capital punishment can be imposed, in compliance with article 6 of the Covenant and with the Committee's general comment thereon.

21. The Committee is concerned about recent amendments of section 15 of the Constitution which inter alia authorize corporal punishment. The Committee reaffirms its position that corporal punishment is incompatible with article 7 of the Covenant.

22. The Committee is concerned that the mass media as well as many other forms of expression, including artistic expression, are subject to censorship and are largely controlled by the Government. The

Committee is further concerned that the mass media as well as the law on civil and criminal defamation used by government officials to limit the freedom of the press. The Committee recommends that the restrictions on freedom of expression and the press be brought into strict compliance with article 19(3) of the Covenant.

23. The Committee expresses concern that immunity has been extended to individuals committing acts of political violence against government opponents. Moreover, the lack of political pluralism threatens the enjoyment of democracy in Zimbabwe. The Committee requests the State party to provide written information on the functioning of the electoral system, including a breakdown of the size of constituencies.

24. The Committee notes with concern that homosexuals are subjected to discrimination, e.g. that aliens deemed to be homosexuals may be defined as "Prohibited Persons" for immigration purposes and are subject to deportation. The Committee recommends that such legislation be brought into conformity with the Covenant.

25. The Committee notes with concern that the Postmaster-General is authorized to intercept any postal articles or telegrams on grounds of public security or the maintenance of law and to deliver these items to a specified State employee. The Committee recommends that steps be taken to ensure that interception be subject to strict

judicial supervision and that the relevant laws be brought into compliance with the Covenant.

26. The Committee is concerned over legal provisions which restrict freedom of movement in a manner incompatible with article 12 of the Covenant. It recommends that appropriate efforts be undertaken to ensure that all persons are able to move out of the country freely and without undue delay obtaining the necessary documents.

27. The Committee is concerned about safeguarding the cultural heritage of minorities in Zimbabwe and recommends, inter alia, that education be provided in minority languages.

28. The Committee recommends the introduction of appropriate awareness campaigns to create a deeper understanding of the Covenant and of the need to respect and protect human rights. Training programmes should be developed in order to acquaint public officials and professional groups working in the area of human rights, including public officials, law-enforcement and correctional officials, members of the judiciary, members of the defence forces, teachers, social workers and health care personnel. The Committee further encourages the State party to include the Covenant in school curricula and to give consideration to reflecting it in the training curricula.

29. The Committee recommends that the State party's next periodic report be comprehensive in character and that it address all the points raised in these concluding observations.

30. The Committee requests the State party to ensure the wide dissemination in Zimbabwe of the Covenant, the State party report and the Committee's concluding observations.